

REMARKS

Claims 15-32 are pending. Claims 15-32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Blumer (U.S. Patent 5,732,219) in view of Dozier (U.S. Patent 5,870,552). Claims 15-32 are provisionally rejected based upon the judicially created doctrine of obviousness-type double patenting in view of claims 26-43 of co-pending application 10/816,225 and claims 21-38 of co-pending application 10/825,973. Claims 17, 23, and 29 are objected to because of informalities.

Regarding the informalities, claims 17, 23, and 29 have been amended to correct the informalities pointed out by the Examiner. Applicants thank the Examiner for pointing out the informalities.

Regarding the double-patenting rejection, a terminal disclaimer has been submitted herewith. It is respectfully requested that this rejection be removed in light of the terminal disclaimer.

Regarding the §103 rejection, without admitting the propriety of the instant rejection, or that the cited references are indeed prior art, Applicant has submitted a declaration under 37 CFR 1.131 to swear behind the all of the cited references relied upon by the Examiner in the instant rejection, in particular the Blumer and Dozier rejections.

The attached declaration of Ralph Wesinger, a named co-inventor of the pending application, shows that the instant invention as claimed was reduced to practice prior to the earliest effective date of the cited references of record.

The attached declaration shows that Mr. Wesinger conceived of the idea for a web site having the functionality as presently claimed at least by Nov. 26, 1994. The site was live and functional at least by May 12, 1995.

The attached declaration also shows that from conception, Mr. Wesinger exercised due diligence in reducing the invention to practice as evidenced through the hiring of co-inventor Mr. Coley in January of 1995. Upon his hiring, Mr. Coley set about to construct the data center necessary to host the web site. In February, 1995, Mr. Coley then began writing the code that ultimately resulted in the reduction to practice of the GolfUSA site that embodied the invention as claimed.

As can be seen from the attached declaration and exhibits, the GolfUSA site actually existed and worked for its intended purpose by at least May of 1995.

Applicant respectfully submits that the attached declaration and exhibits provide satisfactory factual evidence of the conception and subsequent reduction to practice of the invention as claimed prior to the effective date of the cited art per MPEP 715.07.

In light of the submitted declaration, it is respectfully submitted that the cited references of record are no longer available under 35 U.S.C. §102(a)/(e), or 35 U.S.C. §103(a). See MPEP 715.

The attached declaration shows the conception and diligent reduction to practice of the subject matter as claimed in the pending independent claims. It is respectfully submitted that independent claims are now in a condition for allowance.

Regarding the dependent claims, it is believed that these claims are allowable for at least the reason of being dependent upon allowable base claims. It is respectfully requested that the present case be reconsidered and moved to early allowance.

If the Examiner has any questions regarding this application or this response, the Examiner is personally invited to telephone the undersigned at 775-848-5624.

Respectfully submitted,  
SIERRA PATENT GROUP, LTD.

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